

REMARKS

Applicants reply to the Final Office Action dated November 7, 2007 within two months. Thus, Applicants request an Advisory Action, if necessary. Claims 1 and 3-41 were pending in the application and the Examiner rejects claims 1 and 3-41. Support for the amendments may be found in the originally-filed specification, claims, and figures. No new matter has been introduced by these amendments. Reconsideration of this application is respectfully requested.

As per the Applicants' input to the Examiner during Applicants' call on February 6, 2008, Applicants have further amended the claims to more clearly explain the line of credit, as requested by the Examiner. **Applicants also explained to the Examiner that while Burton and Adams discuss a conversion ratio for issuing points, the presently claimed loyalty point conversion process goes far beyond issuance, and includes many steps related to the conversion of points in the during the redemption process. The presently claimed invention also provides a greater degree of flexibility to the participant by allowing the participant, at the time of conversion, to choose whether or not to convert loyalty points to a currency value to be applied to a previously executed purchase, thereby further differentiating the claims over the cited references.**

Rejections under 35 U.S.C. § 103(a)

The Examiner rejects claims 1, 3-12, 19, 24-28, 33, 34, 35, and 37 under 35 U.S.C. § 103(a) as being unpatentable over Burton et al., U.S. Patent No. 5,025,372, ("Burton") in view of Adams et al., U.S. Patent No. 70,025,674, ("Adams"). Applicants respectfully traverse the rejections.

Burton generally discloses a system for awarding a credit card holder with monetary rewards based on performance. The Burton system enables the card holder to elect to have all or a portion of the monetary awards allocated to a credit card account, which may later be used to facilitate purchases. The card sponsor determines a level of achievement (e.g., employee sales goals) that the card holder must obtain in order to have a specified monetary reward credited to their credit card account. Burton further discloses that at regular intervals (e.g., annually, semiannually, quarterly), the system analyzes the card holder performance over the previous period, determines a number of points to be awarded based on the performance level, determines if any bonus points have been earned, and applies the sum value to the card holder's account. At that point, the card holder may use the awarded point value to facilitate a purchase.

Burton does not disclose a conversion ratio. Burton discloses no specific variance considerations that are used to determine a conversion rate. For example, the Burton employer cannot define rules that state conditions effecting a conversion rate. More significantly, conditionally adjusting the conversion rate during a purchase transaction would not be possible under Burton, because the conversion has already occurred on the currency value loaded to the card of the employee.

Adams generally discloses a system for awarding promotional points through a game such as, for example, a casino game, a video arcade game, and the like. The game includes a display that displays an ongoing balance of promotional points that are earned based on a player's performance. This provides the player with an incentive to play the game and to continue playing the game to accumulate additional promotional points that may be later exchanged for items offered by participating merchants. Adams further discloses that various promotional items may be displayed on the game display along with a point value for each item to further encourage the player to accumulate an adequate balance of promotional points to exchange for a desired item.

The Examiner asserts that Adams discloses that "it is known to alter conversion ratios to encourage purchases at various shops or during various seasons" (Background, page 6, paragraph 1). Specifically, the recited portion of Adams discloses "points issuance ratios can be readily altered to encourage purchases at various shops during various seasons by awarding relatively more points" (Adams, col. 2, lines 26-28). This is the only disclosure of a conversion ratio in the Adams reference. **Applicants note that the presently claimed invention is not claiming the modification of a point issuance ratio in order to award a greater number of points under certain conditions. To the contrary, the point conversion ratio as presently claimed is for converting previously earned points into a currency value to be applied to previously executed charges at participating and non-participating merchants alike.** Variances in conversion ratios for converting points to currency value is clearly not taught by Adams.

Moreover, Applicants assert that Adams teaches away from the presently claimed invention in that Adams discloses altering conversion ratios to encourage shopping at specific shops and at specific times. Thus, **to encourage a consumer to shop a specific shop at a specific time, the consumer must be made aware of the point issuance ratio prior to engaging in a transaction. This is contrary to the presently claimed invention, wherein the**

consumer is made aware of the conversion ratio which will be applied to the transaction card statement, after the transaction was already completed. This enables the consumer to agree to the conversion ratio that will reduce the consumer's billing statement of previously executed charges, or decline the conversion ratio and pay the full amount of charges on the billing statement. Significantly, the presently claimed invention allows for much greater flexibility in modifying dynamic conversion ratios because the conversion ratio does not need to be advertised or promoted. The conversion ratio may be modified at any time, while allowing the consumer to determine whether to proceed or cancel the conversion before paying the billing statement charges.

In further reference to Adams, the Examiner states that, "the conversion of the points to currency does not occur without the confirmation from the customers themselves" (page 6, paragraph 1). **First, Applicants again note that Adams does not disclose a conversion of points to currency. Second, Adams does not disclose a conversion to currency which is applied to previously executed charges. Third, Applicants are unable to locate any disclosure of a confirmation step in the Adams reference.** Thus, Applicant respectfully request that the Examiner reference the specific portion(s) of Adams, which teach a conversion of points to currency value and allowing the user to view the conversion ratio prior to accepting the conversion.

While Burton and Adams each disclose a system for issuing and redeeming loyalty points and Adams briefly mentions conversion ratios for issuing points, neither of the references teach (i) converting points to currency value using a conversion ratio, (ii) applying the points to previously executed charges using a line of credit, nor (iii) allowing a consumer to accept or decline a conversion ratio after the purchase transaction, but prior to paying the billing statement for the previously executed charges. As such, neither Burton, Adams, nor any combination thereof, disclose or contemplate at least, "performing an analysis of said merchant identifier to determine a conversion ratio based on said merchant identifier and based on at least one of: a date of said transaction, inventory data, status of said participant, and method of facilitating said transaction", "presenting said participant with a request to approve said conversion ratio", and "receiving an indicator of at least one of: an approval and disapproval of said conversion ratio from said participant, wherein said transaction is canceled when said

indicator is a disapproval of said conversion ratio,” as recited by independent claims 1, 5, 19, 24, and 33.

Claims 3, 4, 6-12, 25-28, 34, and 35 variously depend from independent claims 1, 5, 19, 24, and 33. Applicants assert that dependent claims 3, 4, 6-12, 25-28, 34, and 35 are differentiated from the cited reference for at least the same reasons as set forth above, as well as their own respective features.

The Examiner next rejects claim 13-18, 20-23, 29-32, 36, and 38-41 under 35 U.S.C. § 103(a) as being unpatentable over Burton in view of Storey, U.S. Patent No. 5,774,870 and in further view of Adams. Applicants respectfully traverse the rejection.

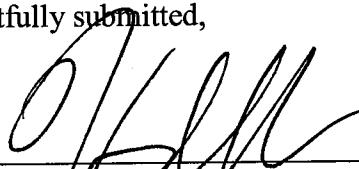
Storey generally discloses an online frequency reward program, where a user may shop catalogs online for products to purchase through the redemption of loyalty points. Storey further facilitates management of the loyalty account, electronically placing an award redeeming order with a fulfillment house, and updating the user's award account. As in Burton and Adams, user's of the Storey system may not view a point to currency conversion ratio prior to choosing to accept or decline the conversion prior to paying the billing statement. As such, neither Burton, Storey, Adams, nor any combination thereof disclose or suggest at least, “performing an analysis of said merchant identifier to determine a conversion ratio based on said merchant identifier and based on at least one of: a date of said transaction, inventory data, status of said participant, and method of facilitating said transaction”, “presenting said participant with a request to approve said conversion ratio”, and “receiving an indicator of at least one of: an approval and disapproval of said conversion ratio from said participant, wherein said transaction is canceled when said indicator is a disapproval of said conversion ratio,” as similarly recited by independent claims 23 and 38.

Claims 13-18, 20-22, 29-32, 36, and 39-41 variously depend from independent claims 5, 19, 24, 33, and 38. Applicants assert that dependent claims 13-18, 20-22, 29-32, 36, and 39-41 are differentiated from the cited reference for at least the same reasons as set forth above, as well as their own respective features.

Applicants respectfully submit that the pending claims are in condition for allowance. The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. **19-2814**. If an extension of time is necessary, please

accept this as a petition therefore. Applicants invite the Office to telephone the undersigned if the Examiner has any questions regarding this Reply or the present application in general.

Respectfully submitted,

By: 

Howard I. Sobelman
Reg. No. 39,038

Dated: February 6, 2008

SNELL & WILMER L.L.P.
400 E. Van Buren
One Arizona Center
Phoenix, Arizona 85004
Phone: 602-382-6228
Fax: 602-382-6070
Email: hsobelman@swlaw.com